

# **Section III**

Responsibility 1b: Federal Grants  
Special Education

### **III. Acquisition and Administration of Federal Funds: Special Education**

*“State-level responsibilities associated with the acquisition and administration of federal grants on behalf of funding or services for all eligible District schools including public, public charter and private schools...including preparation of state plans, applications for competitive grants, setting of state-wide standards and assessment, allocation of federal funds among eligible schools, monitoring of compliance with federal requirements, and submission of reports.” State Education Office Establishment Act of 2000, Section 6(b)(1).*

#### **A. Background**

##### **1. Introduction**

Federal funding for special education programs flows from the U.S. Department of Education’s Office of Special Education Programs (OSEP) to designated state education offices. The Department of Education does not require states to adopt a specific kind of organizational structure for their State Education Office in order to receive Individual With Disabilities Education Act (IDEA) Part B funding for special education. The only requirement for the flow of Federal dollars is an assurance by states or non-state jurisdictions that all of the local and state functions pertaining to special education are being carried out (Schrag, Review of State Education Agency Responsibilities Required by IDEA Implemented within DCPS: Observations and Recommendations, 1998). However, the office that performs state-level functions for special education is responsible for the following tasks as outlined by (IDEA).

Although there are variations in the interpretations of the state-level functions outlined in IDEA, the following list encompasses the key functions as identified through discussion and consultation with professionals in the field of special education at many levels:

- developing/submitting state policies and procedures;
- deciding on use of IDEA state set-aside funds;
- ensuring that all educational programs for students with disabilities are under the general supervision of the persons in the SEA who are responsible for educational programs for children with disabilities and that the programs meet the SEA’s educational standards;
- monitoring for compliance with Federal statutes and regulations related to the implementation of IDEA;
- establishing a Complaints Management System that meets the requirements of IDEA;

- providing impartial due process procedures, including hearings and mediation related to the identification, evaluation, and educational placement or provisions of a free, appropriate public education to children with disabilities;
- planning/operating a Comprehensive System of Personnel Development;
- establishing and maintaining standards for personnel qualifications;
- developing state performance goals and indicators designed to improve student outcomes, tracking performance indicator and data, and preparing two-year performance reports for OSEP;
- developing a state improvement plan;
- providing Child Find from birth through age 21;
- collecting and providing required data to OSEP on long term suspension and expulsions of children with disabilities based on race;
- ensuring funds are expended in accordance with Part B, including those for non-supplanting and maintenance of effort;
- ensuring participation of students enrolled by parents in private schools in special education and related services;
- providing direct SEA/regional services when the LEA cannot provide services; and
- reviewing and approving LEA policies and procedures for special education in order to ensure eligibility for Part B funds.

The State Education Office Establishment Act of 2000 establishes the authority of a new State Education Office under the Office of the Mayor of the District of Columbia. The Act requires the SEO to conduct a study and make recommendations to the Mayor and the Council of the District of Columbia on whether or not the SEO should assume responsibility for several state-level functions, including “acquiring and administering Federal grants.” The transfer of responsibility for Federally funded programs from DCPS to the SEO would require the transfer of the responsibility to carry out state-level functions for special education. Given the weight and importance of special education in the District of Columbia, and the legal liability connected with this responsibility, the SEO has conducted a very careful analysis of this function.

Section III seeks to answer the following questions:

- What are the benefits and drawbacks of maintaining state-level special education functions with the DCPS Division of Special Education?

- What are the benefits and drawbacks of maintaining state-level special education functions with the DCPS Division of Special Education, with some changes in staffing and structure? What changes could mitigate conflicts of interest and strengthen the existing structure?
- What are the benefits and drawbacks of transferring state-level special education functions to the SEO? How should a state office for special education be structured so that it meets Federal requirements and operates efficiently and effectively in strengthening special education services? What are the key transition plan considerations in establishing a state special education office?

## **2. Legislation and Legislative History**

The Individuals with Disabilities Education Act (IDEA), also known as Public Law 94-142, is the Federal law that requires states to adopt goals ensuring full educational opportunities for children with disabilities as a condition for receiving Federal funds. Part B of the Individuals with Disabilities Education Act awards Federal funds to state education agencies to support the responsibility of carrying out state-level functions for special education. The goal of this law is to make a free appropriate public education available for students with disabilities. In order to receive special education services in any state, students must qualify as disabled under one or more of the following thirteen disability categories defined by IDEA (20 U.S.C. Chapter 33 as amended by P.L. 105-17):

- autism
- deaf-blindness
- deafness
- emotional disturbance
- hearing impairment
- mental retardation
- multiple disabilities
- orthopedic impairment
- other health impairment
- specific learning disability
- speech or language impairment

- traumatic brain injury
- visual impairment

### IDEA Concepts

In order to receive Federal funding for special education (IDEA funding), states must create a special education process that contains a number of components outlined by the legislation. The following six concepts underlie IDEA special education statutes, regulations, and case law, and form the basis for the delivery of special education in public schools:

- Zero Reject. Federal law requires that all children be afforded an equal education opportunity. States may not deny any child an education on the basis of a disability. Although there are some variations from state to state, this principle generally applies to all children beginning at age three through age 21 inclusive.
- Individualized Education Program. The IDEA requires that a written statement called an Individualized Education Program (IEP) must be developed in accordance with IDEA regulations for all students identified as having a disability and in need of special education services. In general, the IEP includes current educational level, annual goals, specific educational objectives, special education and related services to be provided, dates for initiation of service, anticipated duration of service, and evaluation criteria. Under certain circumstances, there are other requirements for the IEP, such as a plan for transition services for students age 14 and older (IDEA Regulations §300.340).
- Free Appropriate Public Education (FAPE). What is deemed appropriate is not specifically defined in IDEA. Court decisions over the years have helped define appropriate in specific instances. What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis, depending on the unique needs of that student. Through mediation or due process procedures, both parents and school districts may challenge the appropriateness of a special education program for an individual child.
- Least Restrictive Environment (LRE). The IDEA provides that students with disabilities must be educated to the maximum extent appropriate in the least restrictive environment with their non-disabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes with appropriate supplementary aids and services.
- Due Process and Parental Involvement. Due process considerations are central to the implementation of IDEA. Parents must be notified of the intent to evaluate their child for services, and they must consent to an initial evaluation before the process begins. They must also be involved in the IEP process and provide consent to the initial placement and provision of services. Consent means parents have been fully

informed in their native language or other mode of communication, understand and agree in writing to the plan and the release of specific records, and understand that consent is voluntary and may be revoked at any time (IDEA Regulations §300.50).

- Non-discriminatory Evaluation. There are specific legal requirements that have been put in place concerning the evaluation of children. IDEA requires that tests and other evaluation materials
  - be provided and administered in the child's native language or other mode of communication;
  - have been validated for the specific purpose for which they are used;
  - be administered by trained personnel;
  - include those tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient; and
  - accurately reflect the child's aptitude or achievement and do not reflect the child's impaired sensory, manual, or speaking skills.

*(Charter Schools and Special Education: A Handbook, second edition, 2001)*

### **3. History**

State and Local Level Responsibilities for Special Education. DCPS is a unitary system, one of two single district SEAs in the United States. (The other is the state of Hawaii. According to the U.S. Department of Education, there are also eight outlying U.S. territories with unitary school systems, including Puerto Rico.) DCPS is also unique in the dual role it holds as the SEA for the District of Columbia and as the city's largest LEA. DCPS is comprised of 146 regular public schools and, as the SEA, is host to 33 small LEAs (public charter schools).

The Division of Special Education is the department within DCPS that serves students with disabilities ages 3-21. This Division also performs dual roles as both the SEA and LEA responsible for ensuring the provision of special education to students with disabilities. DCPS as the SEA under IDEA is responsible for ensuring the provision of special education for DCPS and all public charter schools in the District of Columbia. DCPS as the LEA is responsible for special education provision within its 146 schools, as well as the 17 charter schools that have elected to be a part of DCPS for the purpose of special education. The option for a charter school to be treated as part of DCPS for special education purposes is provided for in the D.C. School Reform Act of 1995, which allows charter schools two choices: to be their own LEA for the purpose of special education or to be part of DCPS for special education purposes. All public charter schools receive the same per pupil funding allocation and the add-on funds for each special education student. However, those charter schools that elect to be part of DCPS

for special education are able to receive services and support from DCPS as their LEA. These schools can request evaluation services from DCPS to determine initial and ongoing eligibility within the special education process. In addition, DCPS provides some training and technical assistance. LEA charter schools are responsible for the provision of all programs and services to students with disabilities in their school.

Transportation for all special education students whose IEP requires it as a related service is considered a state function in the District of Columbia (DCMR Chapter 30, §2 of an Act approved June 20, 1906, 34 Stat 317 ch. 3446, DC Code 31-102; Final Rulemaking published at 30 DCR 2972, June 17, 1983). Because it is considered a state-level cost, DCPS covers the cost of transportation for these students, regardless of what type of public school they attend.

**Program Description.** The mission of the Division of Special Education is “to ensure that every child receives a ‘free appropriate public education’ in the least restrictive environment so that children with disabilities are educated with their non-disabled peers in the neighborhood schools to the greatest extent possible.” The Division of Special Education is headed by Assistant Superintendent Anne Gay under the direct supervision of Chief Academic Officer Mary Gil and ultimately under DCPS Superintendent Dr. Paul Vance.

The Division of Special Education consists of nine units assigned specific functions relating to special education. (See Appendix A for a table illustrating the function of each special education unit, including personnel budgets and allocation of staff)

#### **4. Current Status**

DCPS serves more than 77,000 students, including more than 10,560 students with disabilities, according to the December 1, 2000 child count. DCPS classifies these students into thirteen categories defined by IDEA. Within each category, student needs can range from mild to moderate to severe. Students may also be classified with multiple disabilities under the law. Currently, DCPS serves a wide range of special education students in a variety of settings based on the individual needs of each child. (See Appendix B for a breakdown by setting of the number of special education students currently being served by DCPS.)

DCPS, in its role as SEA and LEA, performs all state-level functions for public charter schools, private schools, and DCPS. IDEA outlines a number of state-level functions that state education agencies are required to carry out under the Federal statute. However, DCPS classifies a number of responsibilities that these agencies perform in addition to the state responsibilities outlined by IDEA. These additional state responsibilities include transportation of special education students, tuition payments for special education placements, LaShawn Receivership, Commission on Mental Health, Oak Hill Academy, and other special education functions.

According to the DCPS budget document released on March 6, 2001 the total proposed amount to be spent on state-level special education functions for FY 2002 is

\$118,113,090. These funds cover the IDEA mandated responsibilities, as well as the additional functions that D.C. has designated as state responsibilities described above. This same document shows that the total federal money received to perform the IDEA state-level functions is \$6,736,621. Based on this information, the IDEA Part B funding represents approximately 6% of the total amount to be spent on state-level functions. This same funding represents approximately 3% of the DCPS total proposed spending for local and state-level functions combined.

If a decision were made to transfer the state-level functions for special education from DCPS to the SEO, the SEO would become responsible for those state-level functions required by IDEA or those functions outlined in this analysis. The SEO would not consider the transfer of the additional functions (listed below) that DCPS has designated as state-level responsibilities. Therefore, the dollars that would be transferred from DCPS to the SEO would represent a small portion, or 6%, of the total funding allocated for state-level functions in D.C.

Compliance Agreement with the U.S. Department of Education. In 1997, OSEP held public hearings on the school system's ability to serve students with disabilities in D.C. As a result, DCPS entered into a compliance agreement with the U.S. Department of Education to complete the following tasks in the area of special education:

- Reduce a backlog of over 5,000 evaluations and re-evaluations.
- Provide related services in a timely fashion to all students whose IEPs require them.
- Provide a hearing officer decision for all due process hearings within 45 calendar days of the date that the hearing was requested.
- Implement hearing officer decisions within time lines.
- Establish a comprehensive child-find system.
- Serve and place children in the least restrictive environment, according to their individual needs.
- Implement state complaint procedures
- Provide students age 16 and over with transition services.
- Establish a statewide advisory panel.
- Create surrogate parent procedures to ensure the protection of children's rights for those whose parents cannot be located or are unknown.
- Employ the number of personnel needed to meet the needs of children with limited English proficiency.



(Source: Interview with Deborah Morrow, U.S. Department of Education, Office of Special Education Programs)

DCPS' Division of Special Education has submitted quarterly reports since the start of the Compliance Agreement to the U.S. Department of Education summarizing activity on each of the above tasks. (See Appendix D for a summary of activity as of December 30, 2000.)

Settlement Agreements. Blackman, et al. v. District of Columbia, et al., and Civil Action Nos. 97-1629 and 97-2402 (PLF/JMF), is a class action special education suit that resulted in a resolution calling for mandates to be implemented by DCPS beginning on June 24, 1999. The settlement agreement in the Blackman/Jones suit compelled DCPS:

- to provide timely administrative due process hearings;
- to implement hearing officer decisions and settlement agreements; and
- to create programs and processes to expand special education services for D.C. students with disabilities.

Under the Blackman/Jones Settlement Agreement, DCPS must submit quarterly reports to the plaintiff's attorney. The latest report prepared by DCPS under the agreement was submitted on April 17, 2001 for the period between January 1 and March 31, 2001. This document reports partial, substantial, or full compliance on each of the goals of the settlement agreement.

Federal Monitoring Process. In the spring of 2000, the U.S. Department of Education's Office of Special Education Programs (OSEP) notified the Division of Special Education that D.C. would be one of the states monitored by OSEP during the 2000-2001 school year. The goal of the OSEP Continuous Improvement Monitoring Process was to monitor DCPS' special education programs and services for students with disabilities to determine the level of compliance with the Federal law (IDEA). DCPS staff attended a training seminar in June 2000, where they received information about the monitoring process and a schedule of monitoring visits for the year.

In the fall of 2000, DCPS staff from the Division of Special Education, the unit that serves students ages 3-21, and Part C, the unit that serves students ages 0-3, invited members of the D.C. special education community to participate in the monitoring process by serving as members of the Continuous Improvement Monitoring Committee. This committee included special education advocates, attorneys, disabled adults, and parents and grandparents of children with disabilities. The group also included community members who serve children and adults with disabilities through local universities, educational service agencies, human services, social service organizations and the juvenile justice system. The group's collective knowledge and expertise about

the needs and services of students with disabilities in D.C. allowed them to gather data and look critically at the ability of DCPS Part B and Part C to serve students with disabilities in compliance with the law.

The committee of 35 participants was divided into cluster groups, and each of these groups was asked to focus on a specific aspect of special education. The four Part B cluster groups were General Supervision, Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, and Secondary Transition. The five Part C cluster groups were General Supervision, Comprehensive Public Awareness and Child Find, Family-Centered Services, Early Intervention Services in Natural Environments, and Early Childhood Transition. From August through December, the committee members familiarized themselves with the structure and goals of the OSEP monitoring process, gathered data, evaluated the strengths and weaknesses of D.C. special education programs, and made recommendations for improvement.

The committee submitted their findings in the form of a “Self Assessment” in December of 2000. OSEP circulated the Self-Assessment document to solicit public input. OSEP used the document, along with the feedback from the community, to create a structure for the Federal monitoring process for D.C.

In the spring of 2001, the OSEP Monitoring Committee visited D.C. schools, pre-schools, daycare and social service agencies as part of their examination of D.C.’s level of compliance with Federal law regarding the delivery of special education services to children with disabilities. On April 6, 2001, the OSEP Monitoring Team held an exit conference with the D.C. Monitoring Committee to share their potential findings from the monitoring visits. It is important to note that these findings are considered “potential” and are not to be interpreted as the official findings from the Monitoring Team. OSEP will compile all information gathered during the D.C. monitoring process and generate a report of findings and recommendations in the coming months.

(See Appendix E for a summary of potential findings for General Supervision for Part B from the Validation Exit Conference, as presented by OSEP on April 6, 2001.)

Progress. DCPS has made progress in many areas, including:

- eliminating the backlog of students awaiting initial evaluation and due process hearings;
- moving the responsibility to ensure that all children with disabilities residing in the state are identified, located, and evaluated and that the state has a system for determining the number of children identified and receiving services. These child-find responsibilities have been moved to the DCPS Division of Special Education and activities related to this responsibility, e.g., public announcement, outreach to families etc., have been increased;

- implementing the Special Education Tracking System (SETS), a computerized special education data management system;
- expanding in-district programs in order to decrease expenditures for private placements and to serve students with disabilities within their own communities. Private/public partnerships have been established that enable DCPS to offer a wide spectrum of support services for students in these settings. These efforts have resulted in an increase of 500 students placed within the district in the year 2000, and may result in an additional 100 in district placements during 2001;
- building capacity within their regular public schools. The Division of Special Education has recently submitted new policies to the Superintendent to encourage schools to offer the continuum of special education services to support students with disabilities in their neighborhood schools. DCPS also created a Special Education Reference Guide to help school staff and administration support these efforts;
- submitting the first Special Education State Improvement Grant to solicit Federal money for training for general and special education staff to strengthen capacity within schools; and
- Submitting regulations (ch. 30 of DCMR) and a statewide policy and procedure manual for special education to the U.S. Department of Education's Office of Special Education Programs. The manual was submitted in the spring of 2000, circulated for public comment and will be re-submitted to OSEP in May of 2001.

Future Strategies for Improvement. The Division of Special Education has designed a number of strategies for building upon recent accomplishments and continuing their progress towards better serving students with disabilities:

- developing a related service provider staffing formula that can be used to distribute related service providers to schools by using IEP data and special education projections, including data from SETS;
- improving timeline and due process compliance through closer monitoring;
- building DCPS programs and improving monitoring for non-public and residential placements;
- providing in-house Compensatory Education and Half-Day Extended School Year Programs;
- increasing Medicaid reimbursement coverage, particularly from services in the neighborhood schools through closer monitoring by the Medicaid unit in the Office of the Chief Financial Officer (OCFO);

- enhancing central and local school administration and management of special education services through SETS;
- continuing to strictly enforce residency verification requirements for all students, including those in non-public placements; and
- increasing the spectrum of services available in DCPS neighborhood schools to serve students with disabilities.

## **B. Description of Practices in Other States**

### Introduction

IDEA and the Department of Education outline a number of functions relating to special education that a state education agency (SEA) must perform. In order to benchmark the structure and functions of a state special education office and recommend the assignment of state-level functions relating to special education, the administrative structures of existing state education agencies in several other states were examined. The three states examined here were chosen for their small student populations, similar in size to D.C. (Vermont and North Dakota), their similarly structured single district school system (Hawaii), and their proximity to D.C. (Delaware). Delaware was chosen over Virginia and Maryland because, unlike Delaware and the District of Columbia, neither Virginia nor Maryland has charter schools to oversee. In addition, input was solicited from Department of Education OSEP monitors working with these states to identify best practices for possible replication in the new D.C. SEO office. OSEP monitors recommended North Dakota as a state with a small but effective state special education office.

### **Vermont**

Conversations with OSEP monitors for Vermont and former state staff show that the Vermont state special education unit is currently going through a restructuring and does not have many current practices recommended for replication in D.C. However, lessons can be learned from the existing structure and its strengths and weaknesses.

The special education unit is currently housed within an umbrella division called the Family and Educational Support Team. As of Fall 2000, the Team Director served as the State Director of Special Education and oversaw six other units, including Title I, Child Nutrition, and Prevention and Wellness. The unit was recently restructured to bring more focus; as a result, the Director now oversees only educational support services, such as Special Education, Section 504, and Title I. The Special Education Unit is managed by the Internal Manager, who oversees 13 special education consultants (full-time employees) and five administrative support staff. Each Special Education Consultant is assigned a number of responsibilities, such as monitoring and coordination of residential placements. In addition, there is a member of the finance team specifically assigned to managing special education flow-through funds. When first hired, this person was

assigned to the Special Education Unit but was later transferred to the Finance unit. This position no longer answers to the Special Education Internal Manager, and, as a result, lines of authority and communication are not clear.

The Internal Manager position, responsible for day-to-day management of most state-level functions, has been vacant since August 2000. The former Internal Manager recommended upon her departure that the Department establish work group leaders between the Internal Manager and the Special Education Consultants who could oversee work groups for compliance monitoring, interagency placements, and content area specialists. She feels that as a result of the tremendous scope of program responsibilities assigned to the Internal Manager, they are having trouble filling the position. The absence of leadership in this key role is affecting communication with LEAs.

Legislation recently was passed that expands the Special Education Unit by 20 new positions, including the following:

- 1 full-time attorney (an effort to reduce the amount of litigation by having full-time access to legal advice for staff and LEAs)
- 6 additional monitors (to keep up with the new legislative requirements for increased local compliance monitoring and a special education financial audit every two years)
- 1 consultant specifically assigned to Autism
- 1 consultant specifically assigned to Learning Disabilities
- 1 consultant specifically assigned to Attention Deficit Hyperactivity Disorder
- 2 additional administrative assistants

#### State-level Data Management

Data management is a significant issue in Vermont. The state is trying to build a better, more consolidated system, as little data are collected outside of the state assessment database. Currently, there is a relational database (Child Count) within the Special Education unit that feeds into the larger state database and allows the unit to track eligible students. The data transfer process from local to state is not seamless, and LEAs are often asked to re-verify data. Currently, many Supervisory Unions (districts) are using a system called MasterTrack, but the software company has stopped supporting the product, leaving school districts with data management difficulties. Little data collection at the local level is automated, and both the state office and individual districts are looking for more efficient ways to collect and manage data.

### Overall lessons from Vermont:

- Ensure adequate staffing at the managerial level, both to manage day-to-day state functions and provide support to LEAs (i.e., work group leaders or other staffing structure).
- While an integrated system of support for students is ideal, the practice of combining special education with too many other program units may divert staff resources and cloud responsibility.
- Complaint investigator should be assigned to work solely with Special Education issues.
- Legal Counsel should be available within the Special Education Department (SPED) unit.
- At least one financial staff person working with special education funding should be housed within the SPED unit.

### **Hawaii**

As with D.C., Hawaii (HI) has a unitary school system with only one district. While there is only one public school system within Hawaii, the schools within the system have been divided into seven clusters for administrative purposes by the Hawaii State Department of Education. While these clusters are not considered LEAs, they are nevertheless referred to as districts. Each cluster has its own district office with a District Superintendent and special education staff. For special education purposes, District Superintendents report directly to the State Superintendent, often bypassing the State Office of Special Education. This murky structure makes lines of authority and communication unclear, particularly concerning special education. Hawaii's State Department of Education monitors point out the difficulty in this communication structure and recommended that the State Director of Special Education be included in high-level decision-making processes. In addition, the state is operating under a mandate (settlement agreement) known as the Felix Consent Decree that came about as a result of students with disabilities not being served appropriately within the public school system. This has led to an extensive implementation plan, increased paperwork, and the creation of a comprehensive system of student supports that is often misunderstood as a new program, rather than an organizational framework and a shift in thinking.

The Special Education unit is currently housed within the Office of Accountability and School Instructional Support (OASIS), one of five offices within the state Department of Education. The OASIS office consists of six groups, including the Student Support System group that houses Special Education Administration. *[At the time of this report, information about specific staff roles within the Special Education Unit was unavailable, as there has been a state-wide strike of Hawaii Public School System employees since the*

*beginning of April. As a result, the Director and staff of the Special Education Unit have been unavailable for interviews.]*

A 1998 Management and Accountability Study ordered by the Federal District Court (Hawaii) as part of the Felix Consent Decree outlined a number of concerns with Hawaii's management of state special education functions that D.C. should consider when creating a new state office:

Organizational Structure: While there is a new vision for the "Comprehensive System of Student Supports" as an umbrella for all students needing support, there is no clear vision for special education. Because of the single district structure, for some observers, "there isn't a clear sense of the differentiated roles in special education at the state and district levels." Despite the movement towards an integrated system of services, the Special Education Unit is isolated within the Department, and Section 504 is not well-integrated with special education. The study recommends greater collaboration among offices within the State Department.

The State Special Education Director has no authority over district personnel carrying out IDEA compliance. There has also been great turnover in the State Director position, and this lack of consistent leadership at the state level has led district personnel to act on their own initiative, often with mixed results and continued confusion. The study suggests that the State Director's authority over IDEA implementation and compliance should be more clearly defined, and that increased collaboration between state and local SPED personnel should be encouraged. (As a result of the management study, regular meetings between the State Superintendent, the State Director of Special Education and other high-level administrators have begun to take place.)

Staffing: The study showed inadequate staffing levels for special education, both at the state and local cluster/district level. According to the study report, the state staff is too small to adequately perform all state-level functions. There has also been a push in recent years towards school and locally based management of special education, and while principals support this change, many claim that no additional resources or training has accompanied the additional responsibilities. Adequate numbers of trained staff should be provided at the school and district level to properly implement school-based services.

The study also noted the lack of accounting staff within the Special Education Unit to manage the large amounts of state and Federal funding for special education. At the cluster/district level office, there is usually a Superintendent and Deputy Superintendent, as well as special education and special services, an instructional/program component and school/complex support entities. Overall, there are 561 part-time or full-time special education and special services positions allocated to the seven clusters. Hawaii has had difficulty in recruiting and retaining qualified special education staff, and the lack of support at the local level has only exacerbated the problem.

The DOE and the University of Hawaii have worked together to create a framework for an effective personnel development plan. One recommendation within the framework is to make the plan data driven and responsive to information about current and future personnel needs.

Service Provision: A 2001 amendment has been passed that assigns responsibility for services related to school health, mental health, and psychological and medical services for evaluation or diagnostic purposes, to be implemented from funds available from the Department of Health, which “shall provide for those exceptional children who need these services and who attend public school in the state.”

- Accountability: A high number of respondents participating in the management study noted an overall lack of accountability throughout state and local entities.
- There is little connection between student outcomes and personnel evaluations.
- Accountability measures are not tied to student learning.
- Data are not used to inform decision-making practices. (A more integrated data management system was recommended, and implementation of a new system is currently underway).
- External service providers for special education services were not held accountable for providing student progress information to schools.

Conflict Resolution:

- There is a separate complaint unit for special education that was established as a result of the Felix Decree. This office has a management information system that has provided useful information about the frequency and nature of complaints that is used to help future planning efforts. The office appears to be a valuable resource for parents, but there is confusion over procedures, roles, and authority of the DOE and the Felix complaint office.
- An outside consultant has been hired to develop evaluation procedures for hearing officers.
- Parents are interested in seeing mediation used more often than more formal due process procedures.

(Source: Management and Accountability Study of the Hawaii Department of Education, submitted to Federal District Court of Hawaii, July 10, 1998).



### Overall lessons from Hawaii:

- Data should be used to inform decision-making practices.
- Effective communication between local and state-level special education administrators is important, as well as clear lines of authority and responsibility.
- Staffing levels at the state and local level must be sufficient to meet schools' needs, as well as fulfill all state responsibilities concerning special education.

### **North Dakota**

The OSEP Monitoring Team Leader for a number of small states, including Vermont, recommended the North Dakota State Special Education Office as a small, yet effective, state level office structure. The North Dakota Office of Special Education, housed within the Department of Public Instruction (the SEO), has 16 staff members assigned to special education, including five administrative staff. The State Director and seven regional coordinators share responsibility for state-level functions. These coordinators are each assigned a portfolio of program area responsibilities, but also have a particular expertise relating to specific disabilities. A directory of responsibilities and areas of expertise is distributed to local special education staff, and this helps to facilitate communication between the State Office and regional units. Individuals or entities outside of the division perform a number of functions relating to conflict resolution, but all required paperwork is coordinated by the Regional Coordinator whose portfolio includes complaints management, mediation, and due process hearings. Complaints relating to special education are directed to the State Director for Special Education but are investigated by an independent attorney. Regional Coordinators provide information and assistance to the attorney as needed. If mediation services are requested, the SPED office contacts independent mediators who have been trained in special education issues. If a due process hearing is needed, hearing requests are sent to the North Dakota Office of Administrative Hearings.

The State Director of North Dakota commented that one of the biggest issues in a small state office is the need for staff to be responsible for a number of program areas, rather than having trained specialists focus on specific areas. In addition, he puts great value on having skilled administrative support staff that can assist in programmatic areas as well as provide administrative support. In a small office, he notes, they play a vital role.

There are 233 school districts within North Dakota. In the majority of districts, special education services are centrally administered by educational service agencies that often offer services on a cooperative basis.

The Department of Public Instruction, and specifically the Special Education Unit, maintains an excellent website that is used to communicate a great deal of information to regional staff and parents about all aspects of the special education process (<http://www.dpi.state.nd.us/speced/index.shtm>).

#### Overall lessons from North Dakota:

- A well-trained and well-supported staff is important. It is clear that the State Director provides a great deal of support to his staff
- A state office needs clear lines of authority and communication so that parents, schools, and district staff know who to contact for various concerns.
- An easy-to-navigate website can be a useful tool in sharing information with schools, district-level staff, and parents.

#### **Delaware**

The Exceptional Children Group (ECG) is the unit within the State Department of Education that oversees special education in Delaware schools. The Group includes a State Director and 10 educational associates/educational specialists, each coordinating a number of state-level responsibilities. There is an early childhood coordinator that is shared by the Exceptional Children Group and another unit. Also, there is a special program whereby two teachers per year work with them on special projects. (Each rotation is for two years, with one new teacher each year to allow for continuity.) These projects are statewide professional development programs focusing on such program areas as inclusion, behavior management, and transition services. This has been a huge success, with teachers bringing the classroom perspective to the state administration to work on professional development, and offers great experience for classroom teachers to bring the policy perspective back to the classroom. These state staff also provide assistance to charter schools. There were seven charter schools operating in Delaware during 2000-2001. The State Department includes in its technical assistance manual for charter schools a significant section on special education policies and procedures. Each area of special education, such as related services, funding issues, and child find, includes a contact person in the State Office of Exceptional Children.

#### Overall lessons from Delaware:

- Provide adequate technical assistance to charter schools, including a contact person for all aspects of special education administration.
- They recommend including someone on staff who will oversee inter-agency coordination at the state level.
- State-level special education staff feel that charter schools have not been required to pay enough attention to special education and that this will become a problem. There are also many gray areas relating to special education in charter schools, such as responsibility for residential placements and other policies. The current charter regulations do not address this or other special education issues adequately.

- Current outsourcing of mediation function has been a huge success. They are considering outsourcing other functions.

### **C. Statement of Options**

The District of Columbia has two main options for managing the state-level responsibilities for special education as outlined by IDEA: assign responsibilities to the SEO or allow state-level responsibilities to continue to be located at DCPS with the addition of state-level staff or outsourced services under the supervision of a State Director for Special Education at the SEO. The DCPS Division of Special Education currently serves as the local education agency (LEA) and the state education agency (SEA), fulfilling the responsibilities of both the state and local role in collaboration with other local-level offices (i.e., the Office of Categorical Programs, which carries out the flow and monitoring of Federal money to LEA charter schools).

**Option One:** Maintain the state-level special education functions within the DCPS Division of Special Education with no changes to the current structure.

#### Advantage:

- Maintaining the responsibility for state-level special functions within the DCPS Division of Special Education with no changes in structure would cause the least disruption of current staffing, procedures, and costs.

#### Disadvantages:

- The U.S. Department of Education may have serious concerns about state-level functions remaining in DCPS with the creation of a State Education Office in the District of Columbia.
- There are conflicts of interest (related to the functions listed below) within the current structure that may impede effectiveness. These will remain with no changes in structure or functions.

#### Discussion:

If the state-level functions are to remain within DCPS with no changes to the current structure, the following points illustrate areas where a perceived or actual conflict of interest may still remain:

Monitoring for compliance. The Mediation and Compliance Unit of the DCPS Division of Special Education currently monitors compliance with special education hearing officers' determinations and settlement agreements (Division of Special Education Organizational Chart, DCPS FY 2002 Budget). In the past, DCPS has contracted with the state of Delaware for compliance monitoring of regular public and public charter schools. DCPS as the SEA should not be the designated agency to monitor itself as an

LEA or determine if “all programs for students with disabilities meet the standard of the SEA.” This practice presents a conflict of interest. In addition, DCPS as both the SEA and LEA cannot monitor LEA charter schools objectively.

Mediation and Due Process Hearings Related to the Identification, Evaluation, Educational Placement, or the Provision of a Free Appropriate Public Education to Children with Disabilities. The mediation function is currently carried out by the Mediation and Compliance Unit of DCPS. A Hearing Coordinator, under the supervision of the Assistant Superintendent, Office of Student and School Services, maintains the due process system, coordinates hearing officer assignments, and schedules hearings.

Complaints Management. This function is currently carried out by the Assistant Superintendent for Special Education within the Administrative Unit of the DCPS Division of Special Education. However, the Ombudsman’s office in the DCPS Communications Division is the office officially created to implement the complaints management system. Although the Ombudsman’s Office should receive and respond to state-level complaints, in practice almost all complaints concerning special education are handled by the Assistant Superintendent for Special Education within the Division of Special Education. This places the Assistant Superintendent in a no-win situation in the area of complaints management, with a perceived conflict of interest as she attempts to respond to complaints about herself or her staff.

**Option Two:** Maintain state-level special education functions within DCPS, with changes in assignment of responsibility and staffing structure.

Advantage:

- Maintaining the responsibility for state special education functions within DCPS, with some changes to the current structure, could mitigate conflicts of interest while limiting the administrative burden that would accompany a transfer of all functions to the SEO.

Disadvantage:

- There are some conflicts of interest that cannot be fully resolved within the DCPS structure.

Discussion:

If the state level functions are to remain within DCPS, then the following changes under this option could help to mitigate conflicts of interest and strengthen the existing structure:

State Director of Special Education. A separate State Director of Special Education could oversee state special education functions. Given the high number of D.C. students with special needs and the breadth of the responsibilities relating to special education, a

full-time professional at both the local and state levels may be warranted. To consider maintaining the state-level functions at the DCPS level, one possible option is to allow the Assistant Superintendent to serve in both roles as the Local and State Director of Special Education, although there are conflicts of interests in this option that would need to be addressed. In addition, while the Assistant Superintendent for Special Education is currently the de facto state director, this responsibility is not part of her official job title nor employment contract, and she does not have authority over Federal administrative nor state set-aside funds. Currently, the DCPS budget director makes decisions on how these funds will be allocated for “legitimate state activities” (interview with DCPS Budget Director Jim Ruff, April, 2001). In this official role, the State Director of Special Education could have authority over the use and management of state and administrative set-aside funds.

As noted above, the U.S. Department of Education may have serious concerns about state-level functions remaining in DCPS with the creation of a State Education Office in the District of Columbia. It should be noted that the Department may have additional concerns regarding a single staff person filling the roles of both Local and State Director of Special Education, especially given the existence of the SEO. After a decision is made regarding whether the Local and State Director of Special Education are the same or separate positions, responsibility to oversee the following areas should be considered.

Monitoring for Compliance. The Mediation and Compliance Unit of the DCPS Division of Special Education currently monitors compliance with special education hearing officer determinations and settlement agreements (DCPS Division of Special Education Organizational Chart, DCPS FY 2002 Budget Document). In order to separate the state and local compliance roles, the state monitoring responsibilities could be contracted out to an external monitoring team entity that would report to the State Director of Special Education. This external monitoring entity could include professionals with knowledge and experience in special education and clinical service to children in the variety of settings they will be monitoring, i.e., regular public schools, public charter schools, therapeutic day schools, and residential and hospital services. The practice of contracting out state-level functions has already been used by DCPS; for example, the Office of Categorical Programs has contracted with monitors from the state of Delaware to track and monitor how LEA charter schools have spent Part B funds.

IDEA requires that the SEA ensure that educational programs for children with disabilities meet the standards of the SEA. If monitoring is the tool used to determine if this requirement is being met, then state-level monitoring must happen on a regular, periodic schedule. The outsourced state-level monitoring team could have responsibility for state-level monitoring for all special education programs, including non-public and charter schools. The external team could include a coordinator from the Mediation and Compliance Unit, who could serve as the liaison between the state monitoring team and the DCPS Division of Special Education, providing input on the monitoring process. The coordinator could communicate information about the monitoring process to other DCPS special education units, including Non-Public Day and Charter School, Interagency/Residential, School Support, Program Development and the Early Childhood

Units of the Division of Special Education. The coordinator could also communicate information about the process to schools and have some responsibility for their compliance with requests for information from the monitoring team.

The Mediation and Compliance Unit could continue to ensure at the local level that schools that are party to outstanding legal suits, i.e., Blackman, are appropriately implementing those requirements. (This unit should be re-named so as to prevent its being perceived as a state-level office.) The unit could also focus on providing greater support and technical assistance to schools on compliance issues. This shift in philosophy would reflect changes that are taking place at the state and Federal level across the nation.

Mediation of Matters Within the IEP Process. The DCPS Mediation and Compliance Unit is currently responsible for receiving requests for mediation, scheduling independent mediators, and representing all regular public and non-LEA or District charter schools in the mediation process. LEA charter schools can contact this unit for a list of independent mediators, but are responsible for their own scheduling and representation within the mediation process.

DCPS has created a system to receive requests for mediation and make assignments through the use of an individual outside of DCPS, who has been contracted to maintain responsibility for the coordination and assignment of mediation officers. In order to mediate perceived conflict of interest in this area, the individual currently contracted by the DCPS Mediation and Compliance Unit could instead be contracted to answer to the State Director of Special Education.

In addition, DCPS may benefit from encouraging parents to look to mediation as a viable option for resolving conflict when they have issues with the special education process. Parents receive information about their rights and procedural safeguards within the special education system but they may not always understand the language or meaning of these materials. DCPS could consider creating a public awareness campaign that defines mediation in easy to understand language and shows how parents can use it to resolve issues. By reaching out to parents in this way, DCPS can work toward decreasing the number of due process hearing requests and help parents resolve issues before they reach the point of crisis and financial burden.

Impartial Due Process Hearing Procedures and Hearing Officer Selection. The Hearing Coordinator, under the supervision of the Assistant Superintendent, Office of Student and School Services, currently carries out this function. The State Director of Special Education could supervise both of these functions.

Complaint Management. This function is currently being carried out by the Assistant Superintendent for Special Education within the Administrative Unit of the Division of Special Education. However, the Ombudsman's office in the DCPS Communications Division is the office officially created to implement the complaints management system. The OSEP is working with DCPS to create criteria that would distinguish formal state-

level complaints from those that should be addressed at the local level. Once this criterion has been clearly defined, the Ombudsman's office within DCPS could carry out the state-level complaint system. The Assistant Superintendent could forward all complaints to the Ombudsman's office. This office could review all complaints and return those to be addressed at the local level to the Assistant Superintendent for response. The State Director of Special Education would supervise the Ombudsman's office.

Distribution of IDEA Part B Funds to LEA Charter Schools. The DCPS Office of Categorical Programs currently carries out this function. The Director of Categorical Programs and Development believes that his current staff does not have the time nor expertise to adequately manage and monitor the flow of Part B funds to LEA charter schools. In order to perform this role efficiently, he believes that the staff would need to be expanded by four additional FTEs, who should be knowledgeable about special education policies, procedures, and requirements under Federal law. The proposed additional staff could carry out this and other state-level functions.

The four additional FTEs could staff an IDEA Part B SEO Team that would be accountable for a variety of responsibilities, including reviewing LEA charter schools' special education policies and procedures before releasing IDEA Part B funding. This review of special education policies and procedures could be coordinated with the two chartering authorities and included in their annual school review process. The chartering authorities could then report their findings to the IDEA Part B SEO Team. The team could also provide technical assistance to schools needing help with the drafting of policies, or contract with an outside technical assistance organization to provide this resource. This IDEA Part B SEO Team would report to the State Director of Special Education.

The Creation and Maintenance of a State-Level Policy and Procedure Manual. This function is currently carried out by administrative and support staff of the Administrative Unit within the Division of Special Education, with assistance from OSEP. The SEO could assign the responsibility for maintenance of the state-level policy and procedure manual to the IDEA Part B SEO Team discussed in the previous section. This team could include a representative from the LEA (DCPS) and both chartering authorities on procedures regarding charter schools.

Direct SEA Services and Special Education Placements for LEA Charter Schools. According to interviews with managerial staff from the Non-Public Day and Charter School Unit and the Interagency/Residential Unit, these units are carrying out direct SEA services, providing special education placements for students needing non-public and residential placements from regular public schools, LEA, and District charter schools.

Although this function is not required to be a state-level function under IDEA, DCPS carries out the function of special education placements for LEA charter schools in their role as SEA. According to the U.S. Department of Education and NASDSE, direct SEA services in other states commonly include state-operated schools for the deaf and blind

and instances where the state has taken over a school district or a school within a district. In order to maintain this function within DCPS, while mitigating any conflict of interest, responsibility for these placements would be assigned to the IDEA Part B SEO Team discussed above.

Special Education Tracking System (SETS). All special education units, including the hearing office, should have appropriate access to the SETS system to track and/or record all activity for documentation and monitoring purposes. This access should include the safeguards necessary to ensure student confidentiality. External organizations or individuals who are carrying out state functions on behalf of DCPS as the SEA could also have some access to SETS to record information from monitoring visits and access updated information about school compliance with Hearing Officer decisions (HODs) and settlement agreements. Appropriate levels of access and security could be established for each staff person and unit to ensure the confidentiality of student information.

**Option Three:** Transfer state level special education functions to the SEO.

Advantage:

- Transferring state-level special education functions to the SEO would eliminate perceived conflicts of interest inherent in the current dual-function structure of DCPS. It could also clarify lines of responsibility and authority to better implement the requirements of IDEA.

Disadvantage:

- Transferring state-level special education functions to the SEO would result in a significant administrative burden and require additional financial and staff resources. Any new administrative structure would have to be designed to avoid any duplication of tasks at the state and local levels.

Discussion:

In order to establish a separate state-level office responsible for special education, there would need to be a full-time State Director to oversee the functions, maintain relationships with local and Federal entities, and oversee all full-time internal and/or contracted responsibilities. The State Director would have ultimate responsibility for all state-level special education functions and the general supervision of special education programs in the District of Columbia.

Transferring state special education functions to the SEO would require the transition of staff and other resources related to the functions described below. The following components should be considered in the creation of any transition plan to transfer the state-level functions for special education to the SEO:



Monitoring for Compliance. According to the DCPS Division of Special Education Organizational Chart, the Mediation and Compliance Unit of the DCPS Division of Special Education currently monitors compliance with special education HODs and settlement agreements. In order to transfer this function to the SEO, there are two options: hire staff to carry out the function or outsource the function to an external entity. If the SEO hires new staff, the team could include attorneys and professionals knowledgeable about special education. This staff could be hired on a part-time basis to prepare and implement an annual monitoring schedule.

Alternatively, the SEO could contract out this process to an external entity to conduct monitoring on a regular, periodic basis. The outsourced state-level monitoring team could have responsibility for state-level monitoring for all special education programs for students ages 3-22 years, including non-public and charter schools, and all students currently placed by the Interagency/Residential Unit through the LaShawn Receivership (i.e., D.C. wards of the state), students involved with the Commission on Mental Health, students at Oak Hill Academy, and other students within the justice system.

Impartial Due Process Procedures: Due Process Hearing, Hearing Officer Selection and Mediation.

- Due Process Hearings: A Hearing Coordinator, under the supervision of the Assistant Superintendent, DCPS Office of Student and School Services, currently carries out this function. This Hearing Coordinator oversees the due process system, arranging for hearing officers and scheduling hearings.
- Hearing Officer Selection. A Hearing Coordinator, under the supervision of the Assistant Superintendent, Office of Student and School Services, currently carries out this function.
- Mediation. A Compliance Coordinator in the DCPS Mediation and Compliance Unit currently carries out this function.

In order to transfer each of these functions to the SEO, the DCPS staff currently handling the functions could be transferred and become full-time employees of the SEO, or this process could be handled by a separate entity contracted by the SEO. In either case, the State Director of Special Education could supervise these positions.

Allocating IDEA Part B Funds to LEA Charter Schools. The DCPS Office of Categorical Programs currently carries out this function. In order to transfer this function to the SEO, appropriate staff could be hired by the SEO in the form of an IDEA Part B SEO Team, as previously described. Responsibilities under this function include the allocation of funds, the review and approval of each school's special education policies and procedures, as required for receipt of Federal funding, and the monitoring of expenditures. The first responsibility for allocation of funds could be assigned by the SEO to the SEO budget office. The remaining two responsibilities for reviewing policies and procedures and monitoring expenditures could be conducted by the IDEA Part B

SEO Team or contracted out to the city chartering authorities. The chartering authorities would then have the option of reviewing policies and procedures and monitor expenditures themselves or contracting that function out to an outside entity.

Deciding on Use of State Set-Aside Funds. The DCPS Budget Director currently carries out this function. In transferring this function to the SEO, the State Director for Special Education within the SEO could make decisions on how administrative and set-aside funds would be spent based on program information from the state special education unit.

Formal Complaints Management System. The Administrative Unit of the Division of Special Education, headed by the Assistant Superintendent for Special Education, currently carries out this function in conjunction with the DCPS Ombudsman's office. In order to transfer this function to the SEO, the Ombudsman's Office could be transferred to the SEO and coordinate all local complaints with the Assistant Superintendent for Special Education. The Ombudsman's office could respond to any state-level complaints, while the local-level complaints could be forwarded to the Assistant Superintendent for Special Education for response. The SEO could also choose to contract with an outside entity to receive all complaints and respond to state-level complaints.

The Creation and Maintenance of a State-Level Policy and Procedure Manual. The Administrative Unit of the DCPS Division of Special Education currently carries out this function, with support from OSEP. In order to transfer this function, the SEO could assign the responsibility for maintenance of the state-level policy and procedures to the IDEA Part B SEO Team discussed in the previous section. This team could maintain this important manual coordination with representatives from DCPS (as the LEA) and the two chartering authorities.

Direct SEA Services and Special Education Placements for LEA Charter Schools. According to interviews with managerial staff from the Non-Public Day and Charter School Unit and the Interagency/Residential Unit, these units are carrying out direct SEA services, providing special education placements for students needing non-public and residential placements from regular public schools, LEA, and District charter schools.

Although this function is not required to be a state-level function under IDEA, DCPS carries out the function in support of LEA charter schools. To transfer this function from the SEO, this office could transfer DCPS staff from each of these units. However, transferring existing staff from the units would be the least favorable option, as the existing staff of placement specialists already have heavy caseloads and are needed to meet the needs of schools on the local level.

Instead, the SEO could hire or contract with an outside entity or team of special education professionals. This IDEA Part B SEO Team could provide technical assistance to LEA charter schools, assist with placements for students who cannot be maintained in the regular school setting, and act as the liaison between the LEA charter schools and the state. The number of new staff needed could be determined by the average number of

high-level special education placements needed for students in LEA charter schools. One team of four to five full-time staff professionals, including a social worker, an attorney, a psychologist, a speech pathologist, and one to two case managers, could initially fulfill the needs of the 17 LEA charter schools.

The team could be included in chartering authorities' monitoring visits and participate in the Part B Funding reviews for LEA charter schools. This team would also be responsible for placement of LEA charter school students requiring a residential placement in coordination with the DCPS Interagency/Residential Unit. The team would be under the supervision of the State Director of Special Education.

Other state-level functions that could be performed by this IDEA Part B SEO Team include the following:

- creating service standards and the approval process for non-public and residential schools;
- creating contracts and service agreements with non-public schools, including payment rates and monitoring procedures;
- monitoring placements to ensure that services are being delivered according to agreements/contracts;
- providing information and documentation on placements for annual state-level monitoring process; and
- creating requirements and monitoring procedures for home schooling.

Planning/Operating a Comprehensive System of Personnel Development (CSPD). The Administrative Unit of the DCPS Division of Special Education currently carries out this function. In order for this function to be carried out by the SEO, this office could hire or contract with an outside entity to create a CSPD and coordinate with DCPS regarding its implementation. The SEO could also assign a state-level staff person to develop and coordinate this process with the Administrative Unit of the Division of Special Education.

Child Find. The Child Find/Surrogate Parent Unit within the DCPS Division of Special Education currently carries out this function. In order to transfer this function to the SEO, the sole staff person assigned to the unit could be transferred to the SEO. This function could also be contracted by the SEO to an outside entity. With either arrangement, the individual or entity assigned this function would be responsible for continued child find coordination with the Part C, Early Childhood Intervention Program and 619 Preschool Program Offices, regular public and parochial school systems.

Tracking Long-Term Suspensions and Expulsions of Non-Disabled Students and Collecting and Providing Data to OSEP Regarding Potential Disproportionality Based on

Race and Tracking Performance Indicator Data and Preparing Two-Year Reports to OSEP. The office of Technology within DCPS carries out the first data function. The Fiscal Officer in the Division of Special Education Administrative Unit carries out the second data function.

In order to transfer these two functions to the SEO, the office could request the necessary information from DCPS and the charter schools, compile aggregate data, and report this data to the Federal Office of Special Education Programs.

Ensuring Non-Supplanting and No Reduction in Level of Effort. The Fiscal Officer in the Division of Special Education Administrative Unit currently carries out this function. In order to transfer this function to the SEO, the SEO could request financial documentation from the annual financial audits completed within DCPS and the charter schools. The information could be reviewed by an external auditing firm to ensure requirements were being met.

Establishing and Maintaining Standards for Personnel Qualifications. The Office of Human Resources currently performs this function. There are conflicting Federal laws regarding personnel qualifications for special education, and DCPS has been working to clarify these requirements. The D.C. School Reform Act exempts charter schools from the requirement for certified teachers. IDEA, on the other hand, requires that personnel who provide special education (at some charter schools, special education may be provided by regular education staff) meet the standards of the SEA (i.e., DCPS). This would mean that charter school special education staff would need to be certified. DCPS is currently looking into this issue. When a decision is made, recommendations can be given regarding the management of this function.

Developing State Performance Goals and Indicators. The Administrative Unit of the DCPS Division of Special Education currently carries out this function. The D.C. School Reform Act releases charter schools from the requirement of developing state performance goals and indicators. Therefore, DCPS is the only LEA in D.C. required to carry out the requirement under this function. In order to transfer this function to the SEO, the office could review DCPS' performance goals and indicators along with their policies and procedures for special education.

Developing the State Improvement Plan. The Director of Special Projects within the Administrative Unit of the DCPS Division of Special Education currently carries out this function. A state improvement plan is only required when a state improvement grant has been awarded. In this case, the function could be transferred by having the SEO hire or contract with an outside entity to develop the state improvement plan with input from DCPS, the two charter school authorizers, and the charter schools regarding special education professional training and development needs of staff.

Ensuring General Supervision of Special Education Programs. The District of Columbia does not have an official State Director for Special Education, and, therefore, there is no single entity or individual with this responsibility. The DCPS Division of Special

Education currently shares this responsibility with the D.C. Board of Education and the Public Charter School Board. In other state education agencies, the State Director for Special Education has this responsibility.

In order to transfer this function to the SEO, an official State Director of Special Education could be housed within the SEO. The State Director could coordinate with the D.C. Board of Education, the Public Charter School Board, and the Chief State School Officer to ensure that all educational programs for special education are under general supervision of the state office. This responsibility could be ensured and supported through the compliance-monitoring role of the SEO.

#### Other state-level responsibilities

Although not included in IDEA as a state-level special education function, the following area has been considered a state-level function by DCPS because of the unique characteristics of the District of Columbia. The SEO may consider transferring this function along with the formal state-level functions in order to absorb all of the responsibilities that DCPS currently handles in what they consider to be their role as the state education agency.

Transportation: This function is currently carried out by DCPS as a state function. Although DCPS provides transportation when it is required as a related service on IEPs for students in charter schools, magnet schools, job sites (as part of school-to-work programs), and foster care kids placed out of state, it is not a required state function under IDEA. Transferring this function to the SEO would entail a very significant shift in administrative burden.

### **D. SEO Recommendation and Rationale**

#### **Recommendation**

**Option Three:** Transfer state-level responsibility for special education functions to the State Education Office.

#### **Rationale**

In order to establish a separate state-level office responsible for special education, there would need to be a full-time State Director to oversee the functions, including all full-time internal and/or contracted responsibilities, and maintain relationships with local and Federal entities. The State Director would have ultimate responsibility for all state-level special education functions and the general supervision of special education programs in the District of Columbia.

Transferring state-level special education functions to the SEO would eliminate perceived conflicts of interest inherent in the current dual-function structure of DCPS. It could also

clarify lines of responsibility and authority to better implement the requirements of IDEA.

Transferring state-level special education functions to the SEO, however, would result in significant administrative burden and require additional financial and staff resources. Any new administrative structure would have to be designed to avoid any duplication of tasks at the state and local levels. It would require, also, the transfer of staff and other resources related to the functions described in the previous section.

## **E. Application of Decision Criteria**

### **1. Consistency With the Mission and Vision of the SEO**

Transferring the state-level special education functions to the SEO is consistent with the mission of the SEO to enhance the administrative efficiency of state-level functions. In the past, DCPS has had responsibility for carrying out both local and state-level functions for special education. With careful planning and preparation, the SEO could transfer the responsibility for the state-level functions for special education and continue to serve students with disabilities efficiently and effectively on behalf of public and public charter schools.

In order to enhance administrative efficiency of the state-level functions for special education, the SEO transition team would need to work closely with the DCPS Division of Special Education, the Board of Education, and outside professionals to ensure a clear understanding and coverage of all responsibilities at every stage of the process. If this goal is achieved, the transfer of these responsibilities to the SEO could enhance the overall delivery of services in the District of Columbia by allowing DCPS to focus on local program development and service delivery, while being relieved of burdensome responsibilities, such as state-level compliance monitoring.

### **2. Effect on the Transferring Agency**

Because DCPS currently has responsibility for state-level functions, the suggested changes to the current structure will have a significant effect on the DCPS Division of Special Education. It is the goal of the transfer of responsibilities to have a positive effect on DCPS by alleviating it of the burden of carrying out state-level functions. This office would be critical in the planning and transfer of functions and should be included in each step in the process.

### **3. Effect on the Quality of Educational Services**

Transferring the state-level functions for special education to the SEO, if done carefully, should have little or no effect on the quality of educational services that students receive. If the SEO is able to create a transition team to work with the DCPS Division of Special

Education and others to analyze how and when responsibilities can best be transferred, the new administrative structure could enhance the quality of educational services.

#### **4. Potential for Duplication of Functions**

Transferring the state-level functions for special education to the SEO will increase the possibility for duplication of functions in this area. Careful work would need to be done in each phase of the transition plan to ensure that duplication of functions is avoided.

#### **5. Effect on Reporting Requirements**

Reporting requirements may increase in the area of special education if the SEO includes information on serving students with disabilities in D.C. as part of its reporting requirements for DCPS and public charter schools. This could result in an increased administrative workload for DCPS and SEO staff responsible for data collection and reporting.

#### **6. Potential for Conflicts of Interest**

Transferring the state-level functions for special education to the SEO could eliminate the perceived and/or actual conflicts of interest that exist within the current structure by creating a separate entity with responsibility for state-level oversight regarding the delivery of special education.

#### **7. Effect on Costs**

There will be some increase in costs related to transferring the state-level functions for special education. A State Director of Special Education would need to be hired who would oversee the state-level functions at the SEO. Outside professionals might be employed to assist in the design and implementation of the transition plan. Other staff might be contracted or hired to carry out functions that DCPS is currently handling, such as supporting LEA charter schools that, as a part of the SEO responsibility, would be carried out by the IDEA Part B SEO Team (see Section C, Option Three).

### **F. Transition Plan for Assumption of the Function**

#### **1. Authority and Responsibility of Each Party at Each Stage of the Transition**

##### Strong leadership capacity within the State Education Office

If a decision is made to transfer the state level functions for special education to the SEO, a very thoughtful and carefully planned transition phase will be necessary. As an initial step in transition planning, the SEO would need to hire an experienced, respected special education professional to provide leadership for planning and carrying out the transfer of responsibility to the SEO. The executive level SEO Special Education Transition

Coordinator would provide leadership for two groups, the Special Education Transition Team and the SEO Advisory Panel for Special Education Transition (see below).

#### SEO Advisory Panel for Special Education Transition

The State Education Office would need to take early steps to create an Advisory Panel comprised of three to four well-known and respected special education professionals who have knowledge of the dynamics of the education and other related systems in the District of Columbia, as well as being knowledgeable regarding how state education agencies function in other states.

The Advisory Panel would provide direct advice and assistance to the SEO and to the Transition Team, including assistance in establishing the contents and pacing of the agenda for transition activities. The Advisory Panel also would be responsible for gathering information from entities within the District of Columbia that would be affected by the transfer of state-level special education functions as well as state agencies outside of D.C. that perform the state-level functions currently. The results of their work should help inform the implementation and pace of the process of transferring functions.

Concurrently, Advisory Panel members would gather information from the DCPS Division of Special Education and other departments within DCPS. It would be important for this working group to seek input from staff at every level of the DCPS Division of Special Education regarding their experiences serving as the state office responsible for special education, as well as any positive and negative points to consider in the transfer of this role to the SEO.

The Advisory Panel also would solicit feedback and information from the D.C. Board of Education, both chartering authorities and the Superintendent. Similarly, this working group might consider collecting information from other state-level offices in the surrounding region regarding the role those offices play in overseeing special education in their state.

The Advisory Panel might also consider conducting a thorough examination of all social service agencies potentially affected by the transfer of functions from DCPS to the SEO. The examination could include such agencies as Youth Services Administration, Commission on Mental Health, D.C. Healthy Families, HSCSN and other health management organizations. In addition, the D.C. Medicaid Office, Department of Health, local universities, and advocacy groups might be interviewed and included in the planning process so that the goal of holistic and seamless services to children and families could be attained.

#### SEO Special Education Transition Team

An SEO Special Education Transition Team would need to be created to guide the Advisory Panel and provide feedback at each stage of the transfer of special education functions. The Transition Team would take into consideration the recommendations of



the Advisory Panel along with research about other state education agencies when making decisions about how and when the transfer of special education responsibilities would occur. It would be important for this panel to have input into the transition process and support the work of the Advisory Panel publicly and within each system that they represent. The Transition Team should include the following:

- the State Director of Special Education from the SEO;
- the Assistant Superintendent for Special Education from DCPS Division of Special Education;
- a representative from the D.C. Board of Education's Committee on Special Education and Student Services;
- a representative from each chartering authority; and
- a representative from the State Advisory Panel on Special Education.

The Transition Team also would have at its disposal staff who could advise on legal, budget, personnel, and other matters that must be handled as part of the transition process.

The Transition Team might also consider having regular meetings with the U.S. Department of Education's Office of Special Education Programs to review the transition plan for the transfer of special education functions at each step in the process. OSEP might lend valuable feedback, supply resources and provide connection to and contacts in other states that could support the transition process.

## **2. Dates and Benchmarks for Assumption of Authority, Responsibility, Budget, and Employees**

### Primary Factors to Consider in the Creation of a Transition Plan

The Transition Team should consider four primary factors in the creation of a transition plan for the transfer of special education functions to the SEO:

- the importance and scope of state-level special education responsibilities;
- the considerable progress made in the delivery of special education in D.C. to date;
- the transfer of functions in a way that does not interrupt the delivery of services to students with disabilities; and
- the transfer of functions in a way that does not result in a duplication of services or in responsibilities that slip through the cracks or are neglected by either office in the transfer process.

All timelines for the assumption of responsibilities would need to reflect careful consideration of these points and be carried out in a way that ensured a smooth transition from one office to the other. Timelines for the transition of special education functions would need to continue to support and not jeopardize the delivery of programs and services to students with disabilities.

#### Dates and Benchmarks for Assumption of Authority

It is estimated that the timelines for the transfer of state-level special education functions from DCPS to the SEO may range from six months to three years, depending upon a number of factors, including the primary factors for consideration above, outstanding legal commitments, availability and training of staff, seamless service delivery, as well as the ability of local education entities to work together to support the transfer.

#### Responsibility and Conditions for Transfer

The primary condition for the transfer of state-level functions for special education from DCPS to the SEO should be to ensure that the transfer of functions does not interrupt the delivery of services to students with disabilities. This includes creating a transition plan that does not interrupt current progress in a few key areas, including the outstanding legal cases on behalf of students with disabilities and implementation of improvement planning as a result of the Continuous Improvement Monitoring Process completed by the U.S. Department of Education's Office of Special Education Programs.

In creating the transition plan for the transfer of special education functions, particular attention must be paid to those students for whom regular and class-action special education lawsuits have been filed. DCPS is currently engaged in settlement agreements connected to these suits that include benchmarks and timelines connected to the creation of programs and delivery of services for students. The transfer of any function from DCPS to the SEO must take into account these legal cases and the effect the transfer of functions might have on progress currently being made under these agreements. The Transition Team would need to work closely with the Mediation and Compliance Unit within the DCPS Division of Special Education (the division responsible for DCPS activity on these legal cases) to coordinate appropriate timelines for transfer in this area.

Consideration also must be paid to the Continuous Improvement Monitoring Process completed by the U.S. Department of Education's Office of Special Education Programs in the spring of 2001. The monitoring of D.C.'s special education programs by this federal office will result in a monitoring report outlining the strengths and weaknesses of D.C. programs, as well as recommendations for improvement. From this report, the State Advisory Panel on Special Education (SAP) will serve as the Steering Committee for the purposes of improvement planning and ongoing update to the D.C. Self-Assessment. The Transition Team would want to be aware of the content and timelines for improvement detailed in this process and plan the transfer of special education functions in such a way

as to ensure compliance with the Department of Education's findings and the improvement planning process of the SAP.

### Budget and Employees

The budget and employees involved in the transfer of special education functions would be determined in large part by the Transition Team, with advice and guidance from the Advisory Panel and others.

### **3. Estimated Cost to the SEO for Assumption and Management of the Function and Recommended Sources of Revenue**

The estimated cost to the SEO for the transfer of the function is difficult to predict. Costs would include the budget items identified below. The total estimated cost would be determined largely based upon the salaries of the State Director of Special Education, the IDEA Part B SEO Team, and the consulting rate set by the SEO for the Advisory Panel for the length of the transition process.

Cost Elements	FY 2002 Cost	
Full-time SEO Special Education Transition Coordinator	\$150,000	(includes benefits and office support costs)
Personnel services contracts for a 3-4 person, part-time Advisory Panel for 12 months of the transition process	80,000	(4 consultants @ 365 hours each)
Cost of outsourcing any state-level functions (i.e., monitoring for compliance function)	Cannot predict at this time. No cost likely until FY 2003.	
Hiring or contracting with IDEA Part B SEO Team for implementation activities and the performance of ongoing responsibilities	Cannot predict at this time. No cost likely until FY 2003.	

First-year transition costs would need to be included in the SEO core budget. As functions are later moved to the SEO, corresponding funding is expected to accompany their transfer.

### **4. Factors With Potential for Disrupting Services to Students and Recommended Steps to Prevent Disruption**

The following factors have potential for disrupting services to students with disabilities in the transfer of state-level special education functions from DCPS to the SEO:

- a lack of understanding regarding the definition of state-level special education functions and how they are carried out in service to students with disabilities;
- the transfer of functions resulting in a duplication of services and/or responsibilities at DCPS and the SEO, functions “slipping through the cracks,” or not being carried out by either office; and
- the inability of local education entities (i.e., DCPS, D.C. Board of Education, the chartering authorities, D.C. Council, SEO, and the State Advisory Panel on Special Education) to agree upon a transition plan and project unified public support for said plan.

The SEO recommends three strategies to avoid potential for disrupting services to students with disabilities. First, the Advisory Panel should conduct careful analysis of the state-level functions for special education in D.C. and in other states. Second, require that the Advisory Panel gather, synthesize, and translate information from DCPS and other states into a working transition plan with input from the Transition Team. Finally, support the engagement of local entities involved in education in the creation of the transition plan, and encourage all involved to project unified public support for said plan.